

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7403**

**BILL NUMBER:** SB 366

**NOTE PREPARED:** Jan 6, 2009

**BILL AMENDED:**

**SUBJECT:** Prosecuting Attorneys and the DOC.

**FIRST AUTHOR:** Sen. Head

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. It authorizes the prosecuting attorney in a county in which is located an institution operated by the Department of Correction (DOC) that houses at least 100 and fewer than 1,500 juvenile offenders to appoint an additional deputy prosecuting attorney. (Current law authorizes the prosecuting attorney in a county in which is located an institution operated by the DOC that houses at least 100 and fewer than 1,500 adult offenders to appoint an additional deputy prosecuting attorney.)
- B. It increases the following court fees by \$1: (1) criminal costs fee; (2) infraction or ordinance violation costs fee; (3) juvenile costs fee; (4) civil costs fee; (5) small claims costs fee; and (6) probate costs fee.

**Effective Date:** July 1, 2009.

**Summary of NET State Impact:** The expenditures for the benefits of five new deputy prosecuting attorneys will range between \$411,428 and \$631,090.

New revenues from court fees will generate about \$725,000 to the state General Fund, offsetting these new expenditures.

**Explanation of State Expenditures:** *Deputy Prosecuting Attorneys:* This bill is estimated to result in added costs of between \$411,428 and \$631,090, depending on the number of deputy prosecuting attorneys electing to practice part-time or full-time.

Under current law, a prosecuting attorney may appoint one additional state-paid deputy prosecuting attorney

if the county contains a DOC facility that houses between 100 and 1,500 adult offenders. As proposed, prosecuting attorneys in counties with DOC facilities that house juvenile offenders would also be permitted to appoint one additional prosecuting attorney if the facility houses between 100 and 1,500 juvenile offenders.

The following table shows that prosecuting attorneys in five counties would be eligible for additional deputy prosecuting attorneys.

Facility Name	County	Beds	Total Population on December 31, 2008	New Deputies
Camp Summit	LaPorte	91	90	
Logansport Juvenile	Cass	92	64	
North Central Juvenile	<b>Cass</b>	160	148	1
Northeast Juvenile	<b>Allen</b>	106	104	1
Pendleton Juvenile	<b>Madison</b>	391	288	1
South Bend Juvenile	<b>St. Joseph</b>	133	127	1
Indianapolis Juvenile	<b>Marion</b>	199	119	1
Juvenile Facility Totals:		1,172	940	5

The following table shows the total benefits paid by the state for deputy prosecuting attorneys. Deputy prosecuting attorneys receive 75% of the salary of a prosecuting attorney. Part-time prosecuting attorneys receive either 66% or 60% of the salary of a full-time prosecuting attorney depending on whether a certain DOC facility is located in that county.

IC 33-39-6-5 allows part-time prosecuting attorneys in counties in Madison, Hendricks, Perry, Sullivan, and Putnam Counties to receive 66% of the salary of a full-time prosecuting attorney because either Pendleton Correctional Facility, the Plainfield Correctional Facility, the Branchville Correctional Facility, the Wabash Valley Correctional Facility, or the Putnamville Correctional Facility is located in the county. Prosecuting attorneys who elect to practice part-time in all other counties receive 60% of the salary of a full-time prosecuting attorney.

Benefits	Full-Time	Part-Time Prosecuting Attorneys	
		Madison County	All Others
Total Cost Per Judicial Officer	\$126,218	\$87,720	\$80,927

The following table shows the range of new expenditures depending on whether all deputy prosecuting attorneys practice full- or part-time.

	Practice Full Time	Practice Part Time	
		Madison	All Others
Total Benefits	\$126,218	\$87,720	\$80,927
x Number of Deputies	_____5	_____1	_____4
		\$87,720	\$323,708
<b>New Expenditures</b>	<b>\$631,090</b>	<b>\$411,428</b>	

**Explanation of State Revenues:** *Increase in Court Fees:* The bill also provides for an increase in certain court fees. This is estimated to result in new General Fund revenues of \$725,000.

Court fees are split between the state and local general funds according to the following formula.

	State Share	Local Share
Trial Courts	70%	30%
City and town Courts	55%	45%

The following table shows the estimated revenue that would be generated by the one-dollar increase in each type of case. The fees on felonies, misdemeanors, infractions, and ordinance violations are assessed on persons who are determined to be guilty, plead guilty, or agree to enroll in a deferral program for infractions or a diversion program for misdemeanors in lieu of prosecution. Fees are assessed against a plaintiff who files civil, small claims, or probate actions. There are provisions in statute to exempt plaintiffs and defendants from paying these fees if they can prove that they are indigent.

	Revenue Generated From:			Revenue Deposited Into:	
	Trial Courts	City and Town Courts	Total Revenue	State Share	Local Share
Felonies and Misdemeanors	\$51,569	\$24,344	\$75,913	\$49,487	\$26,425
Infractions & Ordinance Violations	\$440,329	\$149,794	\$590,122	\$390,617	\$199,506
Juvenile	\$16,053		\$16,053	\$11,237	\$4,816
Civil Plenary and Tort	\$148,991	\$8,471	\$157,462	\$108,953	\$48,509
Small Claims	\$199,590		\$199,590	\$139,713	\$59,877
Probate and Others	\$38,218	\$72	\$38,290	\$26,792	\$11,498
Total New Revenue Statewide	<u>\$894,750</u>	<u>\$182,681</u>	<u>\$1,077,430</u>	<u>\$726,799</u>	<u>\$350,631</u>

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** See *Explanation of State Revenues* – Counties, cities and towns would

receive an estimated \$350,000 from the added court fees.

**State Agencies Affected:** Prosecuting Attorneys Council.

**Local Agencies Affected:** Prosecuting attorneys in Allen, Cass, Madison, Marion, and St. Joseph Counties.

**Information Sources:** *2007 Indiana Judicial Report*; Indiana Code; DOC.

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